

Internal Revenue Service

Department of the Treasury

PERSON TO CONTACT: [REDACTED]

EMPLOYER IDENTIFICATION NUMBER: [REDACTED]

CONTACT TELEPHONE NUMBER: [REDACTED]

IN REPLY REFER TO: [REDACTED]

DATE: MAY 19 2000

CERTIFIED MAIL

Dear Applicant:

We have considered your application for recognition of exemption from Federal income tax under section 501(c)(3) of the Internal Revenue Code and have determined that you do not qualify for exemption under that section. Our reasons for this conclusion and the facts on which it is based are explained below.

You were incorporated in [REDACTED] as [REDACTED]. On [REDACTED] you filed Form 1023 with the Internal Revenue Service, requesting tax exemption under Internal Revenue Code (Code) section 501(c)(3).

[REDACTED] is seeking foundation classification as a supporting organization described in Code section 509(a)(3).

As provided in Form 1023, Part II, your proposed activities include the following:

- a) Creating and maintaining a web site on the World Wide Web. The purpose of this activity is to advertise the culture and lifestyle of the [REDACTED] people and to promote tourism.
- b) Funding the printing and distribution of literature and flyers that promote and advertise the culture and lifestyle of the [REDACTED]. [REDACTED] is also involved in the distribution of flyers publicizing medical symposiums on genetic disorders of [REDACTED].
- c) Promoting family reunions by hosting workshops.

[REDACTED] is a membership organization. There are three classes of members: Regular Members and Associate Members are family associations which must meet strict eligibility requirements and Honorary Members which can be individuals, or groups that can contribute time energy and/or money to the efforts of [REDACTED]. At the time Form 1023 was filed there were [REDACTED] paid Regular Members, [REDACTED] Associate Members and [REDACTED] Honorary Members. Each of the Regular Members is a family association, incorporated under the laws of [REDACTED] as non-profit organizations.

Based on the information contained in the membership application provided with Form 1023, there are [REDACTED] families listed as participating in the [REDACTED] family reunion. Of the [REDACTED] families listed, [REDACTED] are located in [REDACTED] and the remaining [REDACTED] are in [REDACTED]. The family reunions were held between [REDACTED] and [REDACTED] in various locations throughout [REDACTED].

Based on the information provided by your representative, [REDACTED] in a letter dated [REDACTED] [REDACTED] devotes approximately [REDACTED] percent of its time and resources to preparing the literature and flyers and promoting family reunions. Of this [REDACTED] percent, the breakdown is [REDACTED] between the two activities.

Form 1023, Schedule D, Section 509(a)(3) Supporting Organizations submitted by your representative as part of his [REDACTED] letter indicates there are no supported organizations supported by [REDACTED]

40.5  
(S) 5-19-00

[REDACTED]

The term "greater community" as defined in [REDACTED] letter is the whole community of [REDACTED].

The [REDACTED] designates [REDACTED] of the [REDACTED] as [REDACTED]. The area covered by these [REDACTED] equals approximately one-third of the [REDACTED].

You claim the dissemination of literature and flyers is educational, lessens the burdens of government, promotes social welfare and lessens neighborhood tensions, eliminates prejudice and discrimination, and combats community deterioration and juvenile delinquency and relief of the aged.

You claim the promotion of and assistance in the planning of family reunions is charitable, educational, lessens the burdens of government, promotes social welfare and lessens neighborhood tensions, eliminates prejudice and discrimination, and combats community deterioration and juvenile delinquency and relief of the aged.

Law:

Code section 501(c)(3) provides for exemption from Federal income tax for organizations which are organized and operated exclusively for charitable, religious, and educational purposes, no part of the net earnings of which inures to the benefit of any private shareholder or individual.

Income Tax Regulations (Regs.) 1.501(c)(3)-1(a)(1) provides that in order to qualify for exemption under section 501(c)(3), an organization must be both organized and operated exclusively for one or more exempt purposes. Failure to meet either the organizational or operational test will disqualify an organization from exemption under section 501(c)(3).

Regs. 1.501(c)(3)-1(b)(1) specifies that an organization is organized for one or more exempt purposes, if its Articles of Incorporation limit the purposes of such organization to exempt purposes.

Regs. 1.501(c)(3)-1(c)(1) provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish such purposes. An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, in construing the meaning of the phrase "exclusively for educational purposes" in Better Business Bureau v. United States, 326 U.S. 279 (1945), the Supreme Court of the United States stated, "This plainly means that the presence of a single non-educational purpose, if substantial in nature, will destroy the exemption regardless of the number or importance of truly educational purposes."

Regs. 1.501(c)(3)-1(d)(3)(i) defines educational as:

- (A) Instruction or training of the individual for the purpose of improving or developing his capabilities; or
- (B) The instruction of the public on subjects useful to the individual and beneficial to the community.

Regs. 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated for any purpose under section 501(c)(3), unless it serves a public rather than a private interest. Thus to meet the requirements of this subparagraph, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization or persons controlled, directly or indirectly, by such private interests. Moreover, even though an organization may have exempt purposes, it will not be considered as operating exclusively for such



purposes if more than an insubstantial part of its activities serve private interests.

Code section 509(a)(3) describes organizations that act in support of organizations publicly supported charitable, educational and religious organizations described in Code section 501(c)(3). In order to qualify for exemption under Code section 501(c)(3) as a supporting organization described in section 509(a)(3) such an organization must meet the three conditions described below:

- (1) an organization which is organized, and at all times thereafter is operated, exclusively for the benefit of, to perform the functions of, or to carry out the purposes of one or more specified publicly supported charitable organizations described in Code section 501(C)(3)
- (2) is operated, supervised, or controlled by one or in conjunction with one or more publicly supported charitable organizations described in Code section 501(c)(3), and
- (3) is not controlled directly or indirectly by one or more disqualified persons other than foundation managers and other than one or more publicly supported charitable organizations described in Code section 501(c)(3).

Section 1.509(a)-4(f)(1) of the Regs describes the nature of relationship required between organizations. To meet the requirements of Code section 509(a)(3), an organization must be operated, supervised, or controlled by or in connection with one or more publicly supported organizations. If an organization does not stand in one of such relationships to one or more publicly supported organizations, it is not an organization described in section 509(a)(3).

Regs 1.509(a)-4(f)(2) describes the three relationships, one of which, must be met in order to meet the requirements of sub-paragraph (1) of this paragraph. A supporting organization may be:

1. Operated, supervised or controlled by,
2. Supervised or controlled in connection with, or
3. Operated in connection with, one or more publicly supported organizations

Regs 1.509(a)-4(f)(3) states although more than one type of relationship may exist in any one case, any relationship described in Code section 509(a)(3)(B) must insure that:

- (i) The supporting organization will be responsive to the needs or demands of one or more publicly supported organization; and
- (ii) The supporting organization will constitute an integral part of, or maintain a significant involvement in, the operations of one or more publicly supported organizations.

While you are organized on a nonprofit basis and the member family associations are also organized on a non-profit basis, nonprofit is not the same as tax exempt. The fact that you do not make a profit is not the controlling factor. See United States v. La Societe Francaise de Bien, Mut., 152 F. 2d 243 (9th Cir. 1945), cert. denied 327 U.S. 793 (1946); Hassett v. Associated Hospital Service Corporation, 125 F. 2d 611 (1st Cir. 1942), cert. denied 316 U.S. 672 (1942); Baltimore Health and Welfare Fund v. Commissioner, 69 T.C. 554 (1978); and B. S. W. Group, Inc. v. Commissioner 352 (1978).

In Better Business Bureau v. United States, 326 U.S. 279-283, (1945), the court held that the existence of a single non-exempt purpose, if substantial in nature, would destroy exemption under section 501(c)(3) regardless of the number or importance of

truly exempt purposes. To qualify for exemption under section 501(c)(3), the applicant organization must show (1) that it is organized and operated exclusively for religious or charitable purposes, (2) that no part of the net earnings inures to the benefit of a private individual or shareholder, and (3) that no substantial part of its activities consist of the dissemination of propaganda or otherwise attempting to influence legislation or engaging in political activity. See Kenner v. Commissioner, 318 F. 2d 632, (7th Cir. 1963).

In general, an organization that applies for recognition of exemption has the burden of proving that it clearly meets all the requirements of the particular Code section under which it has applied. See Kenner v. Commissioner, 318 F. 2d 632 (7th Cir. 1963), and Cleveland Chiropractic College v. Commissioner, 312 F. 2d 203, 206, (8th Cir. 1963).

In Revenue Ruling 67-4, published in Cumulative Bulletin 1977-1, on page 121, the Service recognized four criteria indicating that publishing activities are directed to the attainment of purposes specified in section 501(c)(3). These criteria are: (1) The content of the publication must be "educational"; (2) The preparation of materials must follow methods generally accepted as "educational" in character; (3) The distribution of the materials must be necessary or valuable in achieving the organization's exempt purposes; and (4) The manner in which distribution is accomplished must be distinguishable from ordinary commercial publishing practices.

In analyzing the factors which distinguish whether an organization's activities are "sufficiently distinguishable from ordinary commercial practices" to qualify as carrying out an exempt purpose, the following factors are considered:

Whether a purpose is educational has been interpreted by the courts to be more than conveying information or providing instruction. The purpose must provide instruction or training, which is intended to enable the individual to improve and develop his capabilities or to instruct the public on subjects useful to the individual and beneficial to the community.

Regulations 1.501(c)(3)-1(c)(1) indicates that an organization will not be exempt under section 501(c)(3) if more than an insubstantial part of its activities is not in furtherance of an exempt purpose. Thus, an organization whose operations result in private benefits that is more than insubstantial will not be considered as serving an exempt purpose. This private benefit prohibition applies to all kinds of persons and groups, not just to "insiders" subject to the stricter inurement proscription.

In determining whether an activity "lessens the burdens of government" a two step process has historically been applied:

1. Identify those functions which constitute burdens of government, and
2. Determine if the organization's activities are actually lessening such burdens.

Additionally, the attitude of the government toward the particular organization and its activities must be analyzed to determine if either or both of these conditions are met. A key factor is whether or the government considers the performance of such activities to actually lessen its burden.



[REDACTED]

Taxpayer's Position:

It is the position of your organization, as stated in your representative's letters dated [REDACTED] and [REDACTED], that the activity of printing and distributing literature and flyers is a charitable and educational activity because it: (a) lessens the burden of government by disseminating information relating to

medicine and promoting tourism; (b) promote social welfare and lessens neighborhood tensions by fostering community involvement; (c) eliminate prejudice and discrimination against [REDACTED] by [REDACTED]; (d) combat community deterioration and juvenile delinquency by education and involving the community and its youth and (e) provides relief and assistance to the aged.

It is also the position of your organization that the family reunions are charitable and educational because the greater community enjoyed the festival atmosphere, public discussions and the economic benefit to the business community and the local government.

The family reunions lessen the burdens of government by promoting the area for tourism.

You claim the family reunions curb juvenile delinquency because it encourages family and community participation, promote social welfare in the local area and stimulate the aged, which provides relief to the distressed.

You claim the reunions are as beneficial to the youth of the area as the activities of such organizations as the [REDACTED] and the [REDACTED].

The reunions are also claimed to ir lve and stimulate the aged in life and relieve depression, which is common in uninvolved people.

You also claim the family reunions promote social welfare in the local area by imparting a sense of community to the greater community.

The Government's Position:

The printing and distribution of flyers publicizing the medical conferences and seminars does serve a charitable and educational purpose. However, the Service does not find the activities of publishing a list of area bed and breakfast facilities in the area as educational in nature, nor does it lessen the burdens of government by promoting tourism.

You have not provided any examples of literature or other printed materials that are charitable, educational or religious within the meaning of Code section 501(c)(3).

The Service does not accept your assertion that the advancement of [REDACTED] helps eliminate prejudice and discrimination toward [REDACTED]. There has been no evidence submitted to show that people of [REDACTED] are a protected class as defined in any Federal statute.

Providing assistance to family groups holding independent family reunions, generally last for one or two days, at several locations, over a period of two weeks, including three weekends does not constitute a charitable activity within the meaning of Code section 501(c)(3). The activities serve to benefit the members of the participating family associations, not the greater community. Also, the activities are of such a short duration, there is no substantive benefit to the greater community.

[REDACTED]

[REDACTED]

You do not qualify as an organization described in Code section 509(a)(3) because you have not provided the names of the supported organizations, and have not met any of the three requisite tests as set forth in the Regs 1.509(a)-4(g).

Therefore, we have concluded that you do not qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code. In accordance with this determination, you are required to file Federal income tax returns on Form 1120.

Contributions to your organization are not deductible by donors under Code section 170(c)(2).

In accordance with the provisions of section 6104(c) of the Code, a copy of this letter will be sent to the appropriate State officials.

If you do not agree with our determination, you may request consideration of this matter by the Office of Regional Director of Appeals. To do this, you should file a written appeal as explained in the enclosed Publication 892. Your appeal should give the facts, law, and any other information to support your position. If you want a hearing, please request it when you file your appeal and you will be contacted to arrange a date. The hearing may be held at the regional office, or, if you request, at any mutually convenient district office. If someone who is not one of your principal officers will represent you, that person will need to file a power of attorney or tax information authorization with us.

If you do not appeal this determination within 30 days from the date of this letter, as explained in Publication 892, this letter will become our final determination in this matter. Further, if you do not appeal this determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust administrative remedies. Section 7428(b)(2) of the Code provides, in part, that "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the district court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Appeals submitted which do not contain all the documentation required by Publication 892 will be returned for completion.

If you have any questions, please contact the person whose name and telephone phone number are shown in the heading of this letter.

Sincerely,

*Steven T. Miller*

Steven T. Miller  
Director, Exempt Organizations

Enclosure: Publication 892

cc: [REDACTED]



Internal Revenue Service  
District Director

Department of the Treasury  
SOUTHEAST KEY DISTRICT

Date: MAY 19 2000

[REDACTED]  
[REDACTED]  
[REDACTED]

Contact Person:

[REDACTED]

Contact Telephone Number:

[REDACTED]

Dear [REDACTED]

We are sending you the enclosed material under the provisions of a power of attorney or other authorization you have on file with us. For your convenience, we have listed below the name(s) of the taxpayer(s) to whom this material relates.

If you have any questions, please contact the person whose name and telephone number are shown in the heading of this letter.

Sincerely,

*Steven T. Miller*

Steven T. Miller  
Director, Exempt Organizations

Enclosures: Letter

[REDACTED]  
[REDACTED]  
[REDACTED]